

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL YAHNE,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS *et al.*,

Defendants.

Case No. C04-5661FDB

REPORT AND
RECOMMENDATION

**NOTED FOR:
JULY 29th, 2005**

This civil rights action brought under 42 U.S.C. § 1983 has been referred to United States Magistrate Judge J. Kelley Arnold pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Early in this action the defendant moved to dismiss. (Dkt. # 14). In response plaintiff asked for leave to amend his complaint. His motion was granted and an order to amend was entered March 8th, 2005. (Dkt. # 19). On May 27th, 2005, the court entered a second order directing plaintiff to file an amended complaint that complied with the court's March 8th, 2005 order. (Dkt. # 31 and 19). Plaintiff has failed to follow court orders regarding amending his complaint repeatedly.

The May 27th, 2005 order specifically warned plaintiff that unless an amended complaint that complied with the March 8th, 2005 order was received by June 20th, 2005 the court would recommend that

1 this action be dismissed. (Dkt. # 31). No amended complaint has been filed as of June 30th, 2005.

2 The court will not tolerate a party ignoring court orders. The court recommends that this action be
3 **DISMISSED WITHOUT PREJUDICE** for failure to comply with a court order and failure to prosecute.
4 A proposed order accompanies this Report and Recommendation.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
6 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
7 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
8 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
9 set the matter for consideration on **July 29th, 2005**, as noted in the caption.

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11 DATED this 30th day of June, 2005.

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14 /s/ J. Kelley Arnold
15 J. Kelley Arnold
16 United States Magistrate Judge
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